

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

	X	
<b>SECURITIES AND EXCHANGE COMMISSION,</b>	:	
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b><u>19 Civ. 09439 (PKC)</u></b>
	:	
<b>TELEGRAM GROUP INC. and TON ISSUER INC.,</b>	:	
	:	
<b>Defendants.</b>	:	
	X	

**THE TON COMMUNITY FOUNDATION’S NOTICE OF MOTION  
AND MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE***

PLEASE TAKE NOTICE that the TON Community Foundation (the “Foundation”) respectfully seeks leave to file the accompanying *amicus curiae* brief. The Foundation makes the motion before the Honorable P. Kevin Castel, United States District Judge, at the United States Courthouse, Courtroom 11D, 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court.

**INTEREST OF PROPOSED *AMICUS CURIAE***

The TON Community Foundation is a non-profit association of Telegram Open Network (TON) ecosystem participants -- developers, validators, founders and employees of TON-based commercial and non-commercial projects. The main mission of the TON Community Foundation is to promote the fastest, most effective and equitable development of TON as a decentralized system through collaboration and cooperation. There are currently approximately 20 teams in the community developing different solutions based on TON. In total, according to the Foundation’s data, in just six months of active TON testing, about 8,000 people participated in the groups created by the community members. TON community has about 2,000 active participants, mostly concentrated in chats and channels inside the Telegram messenger, in particular in the chat

rooms @tondev en, @tondev ru, [@ton\\_research](#); around the channels [@infoton](#), [@tondev](#), [@ton\\_overview](#), [@ton\\_china](#), TON China Website: <https://tonbus.com/>, and others.

This brief, however, is submitted by the Foundation itself, not by any individual members or their affiliates, and seeks to advance the Foundation’s overarching goal of clear and sensible regulatory policy, not the pecuniary interests or legal positions of any individual members or their affiliates. Neither the Foundation nor its individual members are affiliates of the Defendants, nor did they or their counsel receive any assistance, compensation, or promises of compensation from the Defendants, their counsel, or any other parties in connection with this submission. None of the Defendants or their counsel has contributed to or reviewed this Brief prior to its filing.

### **ARGUMENT**

“The usual rationale for *amicus curiae* submissions is that they are of aid to the court and offer insights not available from the parties.” *Citizens Against Casino Gambling v. Kempthorne*, 471 F. Supp. 2d 295, 311 (W.D.N.Y. 2007) (citation omitted). An *amicus* brief should be allowed when “the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997).

The purpose of the Foundation’s brief is to state the position of TON Blockchain developers the TON Blockchain is fully operational, with a state-of-the-art prelaunch security and a developed suit of services, and is ready to be launched in a matter of seconds. This Amicus Brief thus presents, on behalf of the community of TON Blockchain developers unaffiliated with Telegram, unique factual information and perspective that can assist the Court, beyond the help that the parties or their attorneys are able to provide.

The Foundation has not solicited consent of either Telegram Group Inc. and Ton Issuer Inc., or the SEC to the filing of this motion at this time.

**CONCLUSION**

For the foregoing reasons, the Foundation respectfully requests that this Court grant its motion for leave to file the attached *amicus curiae* brief.

Dated: February 14, 2020.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I, Dimitry Joffe, hereby certify that on this 14th day of February 2020, I caused a copy of motion for leave to file the *Amicus Curiae* Brief by the TON Community Foundation to be served upon the registered participants in this case by ECF.

A handwritten signature in blue ink, reading "Dimitry Joffe", with a horizontal line extending to the right.

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Dimitry Joffe  
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*Counsel to Amicus Curiae  
the TON Community Foundation*